

Remarks

The Office Action dated October 11, 2006 has been carefully reviewed and the foregoing amendments are submitted in consequence thereof.

Applicant believes that no extension of term is required and that no additional fee for claims is required. If any additional fee is required for an extension of term or claims, the Commissioner is hereby authorized to charge Deposit Account No. 01-2384.

Claims 30-52 are now pending in the present application, of which claims 30, 31, 33, 35, 42, 46, 48, 49, and 52 have been amended. It is respectfully submitted that the pending claims define allowable subject matter.

A. Drawing Objections.

The objection to the drawings is respectfully traversed. The drawings were objected to for not showing certain features of the invention as claimed, but Applicants respectfully submit that the noted features are illustrated in the drawings.

1. The Tangent Point in claims 36 and 51

Claims 36 and 51 each recite that the pivot axis of the towing handle is "tangent to the center-axis of the arm portion at the distal end of the arm portion." This is shown in Figure 1. It is noted that, geometrically, the pivot axis of the towing handle (designated as the axis B-B in Figures 4 and 6) meets the curved axis of the arm (designated as the axis A-A in Figure 1) at a point tangent to the curved axis.

2. The Stems of claim 42

Claim 42 has been amended to recite a single stem and is submitted to render the objection to the drawings moot. Figures 1, 4 and 6 clearly illustrate a single stem as is now being claimed.

Applicants accordingly request reconsideration and withdrawal of the objection to the drawings.

B. The Double Patenting Rejections

The Federal Circuit has explained that, “A rejection based on nonstatutory double patenting is based on a judicially created doctrine grounded in public policy so as to prevent the unjustified or improper timewise extension of the right to exclude granted by a patent.” In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993).

MPEP § 804 provides as follows with respect to such double-patenting rejections:

Any obviousness-type double patenting rejection should make clear:

- (1) The differences between the inventions defined by the conflicting claims - a claim in the patent compared to a claim in the application; and
- (2) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue is anticipated by, or would have been an obvious variation of, the invention defined in the claim in the patent.

MPEP § 804 also states:

When considering whether the invention defined in a claim of an application would have been an obvious variation of the invention defined in the claim of a patent, the disclosure of the patent may not be used as prior art. General Foods Corp. v. Studiengesellschaft Kohle mbH, 972 F.2d 1272, 1279, 23 USPQ2d 1839, 1846 (Fed. Cir. 1992).

As MPEP § 804 also makes clear, obviousness type double patenting rejections requires rejection of an application claim when the claimed subject matter is *not patentably distinct* from the subject matter claimed in the commonly owned patent. It is well settled that claims must be considered in their entirety when making such a determination. That is, all recitations of the claims must be considered. Differences in the claims may not be ignored.

MPEP § 804 also carefully explains that:

Domination and double patenting should not be confused. They are two separate issues. One patent or application “dominates” a second patent or application when the first patent or application has a broad or generic claim which fully encompasses or reads on an invention defined in a narrower or more specific claim in

another patent or application. Domination by itself . . . cannot support a double patenting rejection.

See MPEP § 804 II.

The rejection of claims 48-52 on the ground of nonstatutory obviousness-type double patenting over the claims of U.S. Patent No. 6,651,791 is respectfully traversed. The rejection is submitted to be improper. The requirements of MPEP Section 804 have not been met in the instant rejection. In particular, no claim comparison has been made between any pending claim and any claim of the '791 Patent, the differences in the claims have not been identified, and reasons why the differences in the pending claims would have been considered an obvious variation of the claims of the '791 Patent have not been articulated. Rather, the Office Action merely states that the claims of the '791 Patent teach all claimed recitations of the handle structure.

Differences between claims 1-16 of the '791 Patent and the pending independent claims 30, 48 and 52 are believed to be apparent. For example, none of the present independent claims recites a pivot pin while each of the independent claims 1 and 9 of the '791 Patent recites a pivot pin. Applicant respectfully submits that such differences noted above present a dominance issue and not a double patenting issue. Presenting broader claims in a continuation application, as the Applicant has now done, does not ordinarily present a double patenting issue. As MPEP § 804 explains, dominance and double patenting are separate issues, and broader claims to do not in and of themselves justify a double patenting rejection. This is believed to be the situation at hand, and the double patenting rejection is accordingly submitted to be inappropriate.

The rejection of claims 30-41, 43-45 and 47 on the ground of nonstatutory obviousness-type double patenting over the claims of U.S. Patent No. 6,651,791 in view of either Bieber (U.S. Patent No. 5,645,146) or King et al. (U.S. Patent No. 4,759,431) is respectfully traversed. The rejection is traversed because the requirement of MPEP Section 804 have not been met and because a dominance issue, rather than a double patenting issue, is present.

The rejection of claims 39-41 on the ground of nonstatutory obviousness-type double patenting over the claims of U.S. Patent No. 6,651,791 in view of Liang (U.S. Patent No. 5,464,080) is respectfully traversed. The rejection is traversed because the requirement of MPEP Section 804 have not been met and because a dominance issue, rather than a double patenting issue, is present.

Applicants request withdrawal of the double patenting rejections, or in the alternative, that a proper rejection in full accord with MPEP Section 804 be established on the record for Applicants' review and response.

C. The § 112 Rejections

Applicants will now address the § 112 Rejections, which are believed to be overcome as explained below.

1. The § 112, ¶ 1 Rejections

The rejection of claims 36, 37, 39-46 and 51 under 35 U.S.C. § 112, first paragraph is respectfully traversed.

Preliminarily, the Final Office Action states that "this is a new matter rejection". Applicants note that, as a matter of procedure, § 112, paragraph 1 applies to the *disclosure* and not to the claims. Likewise, 35 U.S.C. § 132 states that no amendment may introduce new matter into the *disclosure*. Thus, when properly applied, § 112, paragraph 1 and new matter rejections under § 132 are to be directed to the specification and not to the claims. No amendments have been made to the specification that would implicate the provisions of § 112, paragraph 1 and/or the provisions of § 132. The rejection of claims 36, 37, 39-46 and 51 under § 112, paragraph 1 is therefore procedurally improper and should be withdrawn.

Under 35 U.S.C. § 112, 1 a patent specification shall, among other things, "contain a written description of the claimed invention, and the manner and process of making it and using it", often referred to as the "written description requirement". To satisfy the written description requirement of 35 U.S.C. § 112, 1, the applicant must convey with reasonably clarity to those skilled in the art that, at the time that, as of the filing date sought, he or she was in possession of

the invention. *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555 at 1563-64, 19 USPQ2d 1111, 1117 (Fed. Cir. 1991).

The Office Action asserts that the pivot axis being “tangent to the center-axis of the arm portion at the distal end of the arm portion” as recited in claim 36 is not taught in the specification. Applicants disagree and submit that claim 36 is directly supported by Figure 1 and conveys to those in the art that Applicants were in possession of the invention as of the filing date sought.

With respect to the “the pivot axis being co-linear to the center-axis” as recited in claim 37. Applicants respectfully submit that the pivot axis of the towing handle (designated as the axis B-B in Figures 4 and 6) is co-linear with the curved axis of the arm (designated as the axis A-A in Figure 1) as shown in Figure 1 of the application. Also, page 11, line 26-28 states that

[T]he journal pin 56 is aligned with the center axis A-A of the arm portion 24 and the towing handle is free to pivot thereabout.

As the journal pin 56 illustrated in Figure 6 extends along the pivot axis B-B, it follows that the pivot axis B-B and the arm center axis A-A are co-linear where they meet one another.

Regarding claims 39-41 and 43-46, the embodiments of Figures 1, 4 and 6 that each illustrate a single stem 42 fully support the “at least one stem” language in the claims. The phrase “at least one stem” encompasses and includes a single stem.

Claim 42 has been amended to recite a single stem in full accord with the figures.

Applicants request at least for the reasons set forth above that the specification and figures clearly establish possession of the invention now being claimed, and accordingly request that the § 112, ¶ 1 rejections be withdrawn.

2. The § 112, ¶ 2 Rejections

The rejection of claims 30- 51 under 35 U.S.C. § 112, second paragraph is respectfully traversed.

Under 35 U.S.C. § 112 ¶ 2, the specification shall conclude with one or more claims “particularly pointing out and distinctly claiming what the applicant regards as his invention”, often referred to as the definiteness requirement. Whether claim language is sufficiently definite depends on whether one skilled in the art would understand the scope of that language when read in light of the patent specification. In re Morris, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997); In re Zletz, 893, F.2d 319, 13 USPQ2d 1320 (Fed. Cir. 1989).

It is asserted in the Office Action that claims 30 and 48 do not recite structure necessary to enable the function of the handle. This is not a basis for a § 112 ¶ 2 rejection, as § 112 ¶ 2 neither mandates that the claims be enabling nor requires structure to be recited. Rather § 112 ¶ 2 only requires that the scope of the claim be understood by one skilled in the art. It is well established that a patent applicant is free to recite features of an apparatus either structurally or functionally. In re Schreiber, 44 USPQ2d 1429, 1432 (Fed. Cir. 1997); In re Swinheart, 169 USPQ 226, 228 (CCPA 1971). In construing a patent claim for examination, it is improper to ignore functional recitations. Pac-Tec, Inc. v. Amerace Corp., 14 USPQ2d 1871, 1876 (Fed. Cir. 1990); In re Venezia, 189 USPQ 149 (CCPA 1976). In a proper construction of the claims, *all* recitations of the claims must be considered. See MPEP § 2143.03 (all words in a claim must be considered in judging the patentability of the claim against the prior art). The scope of claims 30 and 48, including functional aspects thereof, are submitted to be readily ascertainable, and claims 30 and 48 meet the requirements of § 112 ¶ 2.

Claims 36 and 37 are also believed to be readily understood in light of the specification and figures, and claims 36 and 37 are explained above in response to the § 112 ¶ 1 rejections.

The “at least one stem” in claim 39 is also respectfully submitted to be readily understood by those in the art in light of the specification. An embodiment of a towing handle having more than one stem is specifically discussed on page 9; line 32 to page 10, line 5 of the specification. As such, while the handle is illustrated with a single stem in the figures, the specification teaches at least one other embodiment having two stems. The “at least one stem” language is open to such possibilities and would be easily construed as such by those in the art.

Claim 42 has been amended to render the issues noted in the Office Action moot.

D. The Prior Art Rejections

Applicants will now consider the prior art rejections in the order set forth in the Office Action.

1. Sadow

The rejection of claims 30-32, 34, 35, 37-39, 47 and 52 under 35 U.S.C. § 102(b) as being anticipated by Sadow (U.S. Patent No. 5,564,538) is respectfully traversed.

As explained by the Federal Circuit, the requirements of Section 102, which is generally referred to as "anticipation", requires a disclosure in a single piece of prior art of each and every limitation of a claimed invention. Apple Computer, Inc. v. Articulate Systems, Inc., 57 USPQ2d 1057, 1061 (Fed. Cir. 2000). A finding of anticipation requires that the publication describe all of the elements of the claims arranged as in the patented device. C.R. Bard, Inc. v. M3 Systems, Inc., 48 USPQ2d 1225, 1320 (Fed. Cir. 1998).

Sadow discloses a wheeled carry-on travel case having a guide tube (18) and a retractable handle (20) received within the guide tube (18). As described by Sadow, the handle (20) can be rotated within the guide tube (18) between two positions rotated 90° from one another. See Col. 2, line 64 to col. 3, line 2. That is the Sadow handle (20), including the cross bar at the top the handle where a user would grip the handle, rotates relative to the guide tube (18). Sadow does not disclose that the cross bar handle grip rotates relative to any portion of the handle (20).

Claim 30 recites, among other recitations, a hand towed piece of baggage including "an arm portion retractably engaged to said piece of baggage" and "a towing handle having a hand grip, the towing handle being connected to the distal end of said arm portion in a manner such that said hand grip can pivot relative to said distal end of said arm portion." Sadow does not disclose a towing handle that can pivot relative to a distal end of a retractable arm. The retractable handle (20) of Sadow has a cross bar at the top thereof that is fixed to the handle (20) and cannot rotate relative to the handle (20). Consequently, the entire handle (20) including the

cross bar, is rotated within the guide tube (18) of Sadow. The guide tube (18) to which the handle (20) is connected is not retractable and the Sadow case does not meet the recitations of claim 30. Claim 30 is accordingly submitted to be patentable over Sadow.

Claims 31-32, 34, 35, 37-39, and 47 depend, directly or indirectly from claim 30, and when the recitations of claims 31-32, 34, 35, 37-39, and 47 are considered in combination with the recitations of claim 30, claims 31-32, 34, 35, 37-39, and 47 are likewise submitted to be patentable over Sadow.

Additionally, claim 31 now recites that the retractable arm portion is arcuate along its axial length. Sadow neither discloses nor suggests this. The retractable handle (20) of Sadow is linear along its axial length and does not anticipate claim 31. Claim 35 is not anticipated for similar reasons.

Regarding claim 32, Applicants submit that Sadow is silent regarding a cross-sectional shape of the retractable handle (20), and in the Figures the handle (20) appears to be circular in cross section. Claim 32 clearly recites that the arm portion has a non-circular cross section and is not anticipated by Sadow.

Independent claim 52 recites, among other recitations, "telescoping arm means" and "towing handle means pivotable relative to the distal end of the telescoping arm means." The Sadow telescoping handle (20) is pivotal with respect to a guide tube (18) that is fixed to the case and is not telescoping. The cross bar of the Sadow handle (20) is not pivotable relative to the distal end of the telescoping handle (20), but rather is fixed and mounted stationary to the handle (20). Sadow does not anticipate claim 52.

Applicants accordingly request that the § 102 rejections over Sadow be withdrawn.

2. Sadow in view of Liang

The rejection of claims 30, 31, 34, 35, 37, 28-41, 43-45, 47 and 52 under 35 U.S.C. § 103(a) as being unpatentable over Sadow in view of Liang is respectfully traversed.

Applicants note the following with respect to the law of obviousness. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed

in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). "It is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). See also, Smithkline Diagnostics, Inc. v. Helena Laboratories, Corp., 8 USPQ2d 1468, 1475 (Fed. Cir. 1988) ("claims, entire prior art, and prior art patents must be read 'as a whole'"). If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990).

Independent claims 30 and 52 are submitted to be patentable over Sadow for the reasons set forth above. Liang is cited in the Office Action as disclosing a pivotal handle that would be an obvious alternative to the Sadow handle. Applicants respectfully disagree and submit that the references teach away from one another. Due to such differences and inconsistencies in the teaching of the Sadow and Liang references, it is respectfully submitted that a prima facie case of obviousness has not been established.

The Liang article of luggage includes, as shown in the figures, front casters (24) that are described as freely and omnidirectionally pivotal, and orientationally fixed rear wheels (24) that follow the direction of travel of the suitcase as it is pulled by a user. Liang discloses a steering apparatus for the suitcase including a ball (32) and socket (30) joint, a pivotal hinge (38), telescoping rods (54) and (56), and a handle (42) that in combination allow easy and convenient steering of the suitcase in any direction. Also, Liang notes that the position of the socket (30) is below the center of gravity of the case (10) for enhanced stability of the case while being steered and reducing a likelihood that the case will tip or fall over. The Liang handle is therefore submitted to address particular issues and concerns that the Sadow handle does not.

The Sadow disclosure addresses the problem of towing a bag along a passenger aisle of an aircraft, and accordingly includes a first set of wheels (14) on the major dimension of the base, and a second set of wheels (16) on the minor dimensions of the base. In use, the user extends the handle (20) and angles or tips the case for its weight to be positioned over one of the sets of

wheels (14) and (16). See Sadow col. 2, lines 52-63 and Figure 3. Thus, the Sadow case requires tipping of the bag that Liang is aimed to prevent. Additionally, the free rotation of the Liang handle would not be desirable in the Sadow case because if the handle was allowed to be positioned obliquely with respect to the wheels (14) or (16) of the Sadow case, the case would tip and disengage the wheels from the ground, making the case very difficult to tow along a narrow passenger isle of an aircraft. The Sadow handle is purposefully designed with 90° pulling positions for towing the handle on one set of wheels or the other, and the Liang handle that is freely rotatable would be unworkable in the Sadow case.

Applicants accordingly request that the § 103(a) rejection of claims 30, 31, 34, 35, 37, 28-41, 43-45, 47 and 52 be withdrawn.

3. Sadow in view of Browning

The rejection of claims 32, 33, 48, 49 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Sadow in view of Browning (U.S. Patent No. 3,606,372) is respectfully traversed.

Browning is cited for teaching an arm having a non-circular cross section. Applicants note, however, that the Sadow telescoping handle (20) is rotatable within the guide tube (18) to position the handle between the two towing positions. If the Sadow handle (20) had a non-circular cross section, it could not rotate within the guide tube (18) in the manner described. Indeed, insofar as the present invention is concerned, the embodiments of arms having a non-circular cross section is provided so that the tubular sections of the arm cannot slidably twist relative to each other. Thus, the non-circular cross section is generally incompatible with the Sadow disclosure and would render the Sadow handle inoperable. Sadow in view of Browning is therefore not suggestive of the non-circular cross section as presently claimed.

4. Williams et al.

The rejection of claims 30, 31, 34, 35, 37, 43, 44, 45, 47 and 52 under 35 U.S.C. § 102(b) as being anticipated by Williams et al. (U.S. Patent No. 4,538,709) is respectfully traversed.

Williams discloses baggage that may serve as a cart for other pieces of baggage. Contrary to the assertion otherwise in the Office Action, however, Williams does not disclose that the handle (20) can pivot *relative to* a distal end of the telescoping pole (50). In fact, Williams is completely silent regarding *how* the handle (20) is attached to the pole at all. Judging by the Figures, however, the pole (50) appears to be circular in cross section, allowing the pole (50) to rotate within the protective cover (7) so that the handle (20) can be oriented in different positions relative to the baggage. Indeed, Figures 9 and 10 of Williams et al. illustrate no structure in the handle that would indicate that the handle (20) is or could be movable to the uppermost pole section (50a). Rather, it is believed that the handle (20) of Williams is mounted stationary to the pole section (50a). The Williams et al. handle is believed to be similar to the Sadow handle, and is believed to be distinguishable from the presently claimed invention recited in independent claims 30, 48 and 52 for similar reasons.

The pivoting of the handle relative to the distal end of a retractable or telescoping arm as recited in independent claims 30 and 52 are not disclosed by nor anticipated by Williams et al. Moreover, Williams et al. is not believed to be suggestive of at least these features either, and independent claims 30 and 52 are believed to be patentable over the cited art.

Dependent claims 31, 34, 35, 37, 43, 44, 45, and 47 depend directly or indirectly from claim 30, and when the recitations of claims 31, 34, 35, 37, 43, 44, 45, 47 are considered in combination with the recitations of claim 30, claims 31, 34, 35, 37, 43, 44, 45, 47 are likewise submitted to be patentable over Williams et al.

Applicants accordingly request that the § 102 rejection of claims 30, 31, 34, 35, 37, 43, 44, 45, 47 and 52 over Williams et al. be withdrawn.

5. Chen

The rejection of claims 30-35, 37-41, 43-45, 48 and 50-52 under 35 U.S.C. § 102(e) as being anticipated by Chen (U.S. Patent No. 6,434,790) is respectfully traversed.

Independent claim 30 recites, among other recitations, a piece of baggage including “a receptacle providing an opening in said top of said piece of baggage” “an arm portion retractably

engaged to said piece of baggage and having an axial length extending between opposite proximal and distal ends, said proximal end being operatively secured to said piece of baggage and said distal end positionable between an extended position and a retracted position through said receptacle” and “a towing handle having a hand grip . . . [being] retracted at least partially into said receptacle when said arm portion is in said retracted position.”

Chen does not disclose the towing handle grip retracted into a receptacle as recited in claim 30. A receptacle does appear to be provided in the Chen apparatus on either side of element (23) in the exploded view of Figure 2. It is clear, however, from Figures 2 and 6 that the handle (30) of Chen is too large to fit into the receptacle and that the handle grip would not retract into the receptacle. Rather, the handle grip would sit above the receptacle when the pull rod (20) is in a retracted position. Claim 30 is therefore not anticipated by Chen.

Dependent claims 31-35, 37-41, and 43-45 depend directly or indirectly from claim 30, and when the recitations of claims 31-35, 37-41, and 43-45 are considered in combination with the recitations of claim 30, claims 31-35, 37-41, and 43-45 are likewise submitted to be patentable over Chen.

Claim 48 recites that the “the towing handle is generally unobtrusive when in the retracted position.” Because the handle (30) of Chen extends from and is exposed in the retracted position, the handle of Chen is obtrusive and potentially interfering with other items when in the retracted position. Claim 48 is therefore not anticipated.

Claim 50 depends from claim 48, and when the recitations of claim 50 are considered in combination with the recitations of claim 48, claim 50 is likewise submitted to be patentable over Chen.

Independent claim 52 now recites, among other recitations, that “a passage extends between the towing handle and a passageway of the telescoping arm means when the towing handle is connected to the distal end.” Chen describes no such passage, and it is noted that the shaft rod (51) of Chen is illustrated as being solid in construction so that when the shaft rod (51) is installed any communication between the passageway in the tube (22) and the handle (30) would be blocked.

Claim 52 is accordingly not anticipated by Chen.

Applicants accordingly request that the § 102 rejection of claims 30-35, 37-41, 43-45, 48 and 50-52 over Williams et al. be withdrawn.

6. Chen in view of Mao

The rejection of claims 36 under 35 U.S.C. § 103(a) as being anticipated by Chen in view of Mao (U.S. Patent No. 6,279,706) is respectfully traversed.

Claim 36 depends from claim 30 that is submitted to be patentable over Chen for the reasons set forth above. Mao does not cure the deficiencies of Chen with respect to claim 30, and specifically does not disclose a towing handle grip retracted into a receptacle recited in claim 30. Because neither of Chen or Mao disclose or suggest at least this feature, the combination of Chen and Mao collectively fail to teach each of the recitations of claim 30. Claim 30 is therefore submitted to be patentable over Chen in view of Mao, and when the recitations of claim 36 are considered in combination with the recitations of claim 30, claim 36 is likewise submitted to be patentable over Chen in view of Mao.

The Examiner is also reminded that Chen was disqualified as prior art that could be used in an obviousness rejection during prosecution of the parent patent, and that the rejection could also be overcome on this basis.

Applicants accordingly request that the § 103 rejection of claim 36 over Chen in view of Mao be withdrawn.

7. Chen in view of Beiber or King et al.

The rejection of claims 47 and 49 under 35 U.S.C. § 103(a) as being anticipated by Chen in view of Beiber (U.S. Patent No. 5,645,146) or King et al. (U.S. Patent No. 4,759,431) is respectfully traversed.

Beiber and King et al. are cited for disclosing handles for bags that may be stored in a generally flush position with the baggage. It is noted, however, that neither Beiber nor King et al. disclose pivotal handles and the rejection appears to be an impermissible hindsight

reconstruction of the claimed invention using isolated teachings of various prior art references in an attempt to deprecate the present claims.

The Examiner is also reminded that Chen was disqualified as prior art that could be used in an obviousness rejection during prosecution of the parent patent with a declaration submitted under 37 C.F.R. § 1.130(a)(2), and that the rejection could also be overcome on this basis.

Applicants accordingly request that the § 103 rejection of claims 47 and 49 over Chen in view of Beiber or King et al. be withdrawn.

8. Casimmally et al. or Casimmally et al. in view of Pond

The rejection of claims 30, 32, 43, 44, and 47 under 35 U.S.C. § 102(b) as being anticipated by Casimmally et al. (U.S. Patent No. 4,273,222) or alternatively under § 103(a) as being unpatentable over Casimmally et al in view of Pond et al. (U.S. Patent No. 5,835,220) is respectfully traversed.

Cassimmally et al. is cited for disclosing a retractable arm portion (36), but Cassimmally et al. actually refer to elements (36) as rigid frame support arms that are pivotally connected to sides (28) of a rigid frame (26). The support arms (36) have fixed length and are pivotable about their lower ends as the trolley is unfolded. Claim 30 expressly recites that the arm portion has “an adjustable axial length.” Claim 30 is therefore not anticipated nor suggested by Cassimmally et al.

Niether Cassimmally et al. Pond et al., or King et al. fairly disclose, in addition to the retracting arm having an adjustable axial length, “a towing handle having a hand grip, the towing handle being connected to the distal end of said arm portion in a manner such that said hand grip can pivot relative to said distal end of said arm portion about a pivot axis that intersects the hand grip when said arm portion is in said extended position, and such that said towing handle grip is retracted at least partially into said receptacle when said arm portion is in said retracted position” as claim 30 recites. The hand grip of Pond et al. is not disclosed as being pivotal *relative to* the telescoping members (45), and the frame end element (30) of Cassimmally et al. that would be gripped by a user is not pivotable about an axis that intersects the element (30). Likewise, King

et al. does not disclose a handle pivotal about an axis that intersects the handle.


Claim 30 is therefore submitted to be patentable over Casimmally et al or Casimmally et al in view of Pond et al.

Claims 32, 43, 44, and 47 depend from claim 30, and when the recitations of claims 32, 43, 44, and 47 are considered in combination with the recitations of claim 30, claims 32, 43, 44, and 47 are likewise submitted to be patentable over Casimmally et al or Casimmally et al in view of Pond et al.

E. Conclusion

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Bruce T. Atkins, Reg. No.: 43,476
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070